

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

BILLY TYLER,

Case No. 18-CV-2840 (SRN/ECW)

Plaintiff,

v.

ORDER

SAV EXPRESS and ONE JOHN DOE
TRUCK DRIVER “TRUCK #7194,”

Defendants.

Plaintiff Billy Tyler requests *in forma pauperis* (IFP) status on his appeal from this action’s dismissal. *See* Appl. to Proceed in Dist. Ct. Without Prepaying Fees or Costs, Doc. No. 9; *see also* R. & R., Doc. No. 5 (recommending dismissal); Order, Doc. No. 6 (adopting report and recommendation). The application is denied.

An application to proceed IFP on appeal must be denied where “the appeal is not taken in good faith.” Fed. R. App. P. 24(a)(3)(A). An appeal is taken in good faith where the IFP applicant “seeks appellate review of any issue not frivolous.” *Coppedge v. United States*, 369 U.S. 438, 445 (1962). A court assesses good faith here by using an objective standard, not the appellant’s subjective beliefs. *Id.* at 444–45. An appeal is frivolous, and therefore cannot be taken in good faith, “where it lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989).

Tyler does not identify any specific issue that he plans to present on appeal. *See generally* Not. of Appeal, Doc. No. 8. Furthermore, review of the Complaint and this

Court's handling of the matter gives the Court no indication of any arguable legal or factual basis for challenging the action's dismissal. The Court therefore deems Tyler's appeal to be frivolous and so not taken in good faith. As a result, his application to proceed IFP on appeal is denied.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY ORDERED that the application to proceed *in forma pauperis* on appeal of Plaintiff Billy Tyler [Doc. No. 9] is DENIED.

Dated: February 4, 2019

s/Susan Richard Nelson
SUSAN RICHARD NELSON
United States District Judge